

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

United States of America, ) File No. CR-10-173  
 ) (MJD/JJG)  
Plaintiff, )  
 )  
vs. ) Minneapolis, Minnesota  
 ) April 5, 2011  
Kenneth Leon Wilcox, ) 2:05 p.m.  
 )  
Defendant. )  
 )

BEFORE THE HONORABLE MICHAEL J. DAVIS  
UNITED STATES DISTRICT COURT JUDGE

**(SENTENCING)**

## APPEARANCES

For the Plaintiff: U.S. Attorney's Office  
KIMBERLY A. SVENDSEN, AUSA  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, Minnesota 55415

For the Defendant: Federal Public Defender's Office  
DOUGLAS OLSON, ESQ.  
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Court Reporter: LORI A. SIMPSON, RMR-CRR  
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Proceedings recorded by mechanical stenography;  
transcript produced by computer.

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1                                   P R O C E E D I N G S

2                                   IN OPEN COURT

3                   THE COURT:   Let's call this matter.

4                   THE CLERK:   The United States of America vs.  
5                   Kenneth Leon Wilcox, Criminal Case No. 10-CR-173.  Counsel,  
6                   will you please state your appearances for the record.

7                   MS. SVENDSEN:  Good afternoon, Your Honor.  
8                   Kimberly Svendsen on behalf of the United States.

9                   THE COURT:   Good afternoon.

10                  MR. OLSON:   Good afternoon, Your Honor.  Doug  
11                  Olson on behalf of Mr. Wilcox, who is with me.

12                  THE COURT:   Good afternoon.  Step forward.

13                  Counsel, there is a *pro se* motion that's before me  
14                  that I have not ruled on dealing with Mr. Wilcox wishing to  
15                  withdraw his plea.  What is your position on this?

16                  MR. OLSON:   I do believe that Mr. Wilcox intends  
17                  to withdraw that motion and I think that's his request.  We  
18                  are ready to proceed.

19                  THE COURT:   Is that correct, Mr. Wilcox?

20                  THE DEFENDANT:  Yes.

21                  THE COURT:   Are you withdrawing your motion to  
22                  withdraw your plea?

23                  THE DEFENDANT:  Yes, Your Honor.

24                  THE COURT:   All right.  Counsel, have you had an  
25                  opportunity to review the presentence investigation report

1 in this matter?

2 MS. SVENDSEN: Yes, Your Honor.

3 MR. OLSON: Yes, Your Honor.

4 THE COURT: Any objections to the factual  
5 statements contained in the presentence investigation  
6 report?

7 MS. SVENDSEN: Not from the Government, Your  
8 Honor.

9 MR. OLSON: Your Honor, I've noted in  
10 particular -- the addendum sets forth my factual objections  
11 to the PSR. And as I've further indicated in my position  
12 paper, we do contest and object to the factual allegation  
13 that there was sexual abuse involving Mr. Wilcox and the  
14 teenager identified as C.L.H. in paragraphs -- particularly  
15 paragraph 6 of the PSR.

16 THE COURT: The defendant objects to certain  
17 factual details contained in paragraph 6 of the presentence  
18 investigation report. Specifically he denies allegations  
19 that he solicited the victim's friends and that pictures --  
20 that the pictures taken by the victim of her friend were at  
21 the direction of the defendant.

22 The defendant further objects to all the  
23 allegations made by the victim's friend C.L.H. He admits  
24 that C.L.H. traveled with him on two trips, but that he did  
25 not inappropriately touch her or otherwise sexually abuse

1 this teenager.

2           These facts are supported by the victim's and  
3 C.L.H.'s statements to law enforcement and Child Protective  
4 Services. Furthermore, the allegations are consistent with  
5 some of the terms of the sexual -- sex contracts that the  
6 defendant had the victim sign.

7           These objections do not affect the applicable  
8 guideline calculations and therefore the Court will overrule  
9 the Defense objections to those and they will be included  
10 into the presentence investigation report.

11           Further the defendant objects to those parts of  
12 paragraphs 124 and 125 that mention wage garnishment for  
13 child support. The defendant states that at the time his  
14 wages were garnished, he lived with the victim and her  
15 mother and provided them with financial support; therefore,  
16 garnishment of his wages is irrelevant.

17           These objections do not affect the sentencing  
18 guideline calculations and will not be taken into account  
19 in sentencing; therefore, those paragraphs will be taken  
20 out.

21           The Court adopts the factual statements contained  
22 in the presentence investigation report as its findings of  
23 fact subject to the Court's ruling.

24           Counsel, have you had an opportunity to review the  
25 advisory guideline calculations?

1 MS. SVENDSEN: Yes, Your Honor.

2 MR. OLSON: Yes, Your Honor.

3 THE COURT: Any objections to those calculations?

4 MS. SVENDSEN: Not from the Government, Your  
5 Honor.

6 MR. OLSON: No, Your Honor.

7 THE COURT: They are as follows: Total offense  
8 level of 48, criminal history points of 1, Category I,  
9 imprisonment range of life imprisonment, supervised release  
10 of five years to life, a fine range of 25,000 to 250,000  
11 dollars, and a special assessment of \$200 and that's \$100 on  
12 the two counts that the defendant had pled guilty to.

13 All right. Mr. Olson.

14 MR. OLSON: Well, the Court is certainly aware of  
15 my request and my position here with respect to sentencing.  
16 There's a reason that, you know, we spend time trying to  
17 discuss and talk about a person's past history and their  
18 circumstances.

19 This is an individual who for most of the 38 years  
20 of his life, with a couple of minor misdemeanors, was a  
21 law-abiding person, never been in prison, worked, work  
22 history, no obvious glaring dysfunction in his life.

23 Obviously he had some difficulty in his childhood,  
24 somewhat of an unusual childhood. He himself also was an  
25 abuse victim not on one occasion, but twice as he was being

1 raised.

2 So as we stand here today we're looking at a  
3 person who up until he started abusing his daughter wasn't  
4 molesting children, wasn't a predator, no indication that  
5 he's a psychopath or that he suffered from some horrible  
6 schizophrenia or mental illness, basically no substantial  
7 criminal history.

8 So something happened, you know, a number of years  
9 ago to this individual and he stands before the Court having  
10 acknowledged his guilt. He's a person who is appropriately  
11 and sincerely remorseful that this is what happened. He's a  
12 person who absolutely wants treatment. He is treatable.

13 Now, there's a reason that -- there's an  
14 additional reason, above and beyond adding some color and  
15 layers to his personal background and circumstances, that we  
16 would get a psychosexual evaluation done for a person.

17 And I'll comment for a second because there are  
18 all kinds of sex offenders, predators, child molesters,  
19 abusers we wouldn't think of getting a psychosexual  
20 evaluation done on because we know what the result is going  
21 to be because we know that all kinds of these horrible  
22 predatory abusers, you can't say anything good about them,  
23 they can't say anything good about themselves, they aren't  
24 remorseful, they're psychopaths. Mr. Wilcox isn't one of  
25 them.

1           Mr. Wilcox when he got arrested a year ago, you  
2           know, he went through a period, like some offenders do,  
3           where there's the denial, there's the minimization, there's  
4           the anger, there's the grief, there's the woe's me phase, and  
5           what am I looking at and whatnot.

6           But sometime starting last spring and particularly  
7           into the summer and the fall he really made an effort at,  
8           you know, first of all dealing with what he had done, trying  
9           to address it in whatever -- how do you do it, whatever is  
10          appropriate, and then trying to figure out if there's  
11          something available. While he is sitting in custody it's  
12          frustrating because the resources aren't available. Is  
13          there something that I can do for myself to help me better  
14          myself, start thinking about why I became a child abuser,  
15          what it is that drove me to do this, is there something I  
16          can do, is there a future for me, is there more to me than  
17          just a monster.

18          And his efforts at self help has been a constant  
19          thing he's been working on. He's gone up and down every now  
20          and then, but his efforts are sincere. It demonstrates that  
21          he is a person who at the end of the day is treatable.

22          He would like, as I indicated in my position  
23          paper, if the Court gives him the benefit of some freedom  
24          some day way in the future, to reach out and help other  
25          people. That's the kind of person that he is.

1           And I'll simply -- I'll add to that that, you  
2           know, I've been doing this for 25 years. The Court has been  
3           doing this for longer than that. I have never really seen a  
4           sex offender reach out and take these kinds of self help  
5           measures.

6           And this isn't about putting on a show for  
7           sentencing. You know, you can only -- people put on their  
8           colors and their pictures for sentencing, but you don't  
9           spend hours and hours engaging in reading books and asking  
10          your attorney to go get you another book and going through  
11          the workbook which comes along with it, sending out letters  
12          to ministries, writing out and taking classes and  
13          correspondence courses just because you want to get a better  
14          sentence. That's not what this is about.

15          So whatever else comes here today, I commend  
16          Mr. Wilcox for taking some efforts to try and improve  
17          himself. There's not a lot available while you're sitting  
18          in the Sherburne County Jail. And whatever else happens  
19          here he'll continue to work on it. That's really kind of  
20          the person that he is.

21          You know, I can't, he can't say much about the  
22          horrible nature of the abuse, the strange, disgusting nature  
23          of the sexual contracts and everything that went on between  
24          him and his daughter.

25          And he knows that he's got to be punished. He



1 knows he's got to go to prison for it. Ultimately it's the  
2 Court's determination what's the appropriate punishment in  
3 light of the conduct.

4 Can't turn back the past, but I'd ask the Court to  
5 give at least some consideration if you'd give him some  
6 glimmer of hope or optimism so that he can make his days in  
7 prison something that he can continue to strive and improve  
8 himself on.

9 I'd simply ask that the Court -- a couple of  
10 things. You know, life is not an appropriate sentence for a  
11 person who appears before the Court as a first-time  
12 offender, who has appropriately stepped up to the plate,  
13 pled guilty. He's remorseful and he's treatable. I'd ask  
14 that the Court impose a sentence of 20 years as sufficient  
15 but not greater than necessary here.

16 Just a couple of last things. The Court -- I  
17 would ask the Court to give some consideration to the six  
18 months he spent in the Martin County Jail -- BOP won't give  
19 him credit for that -- and some consideration for the fact  
20 that he's been in segregation in the special housing unit,  
21 which is a difficult way to spend your time at the Sherburne  
22 County Jail.

23 Mr. Wilcox has asked for recommendations for  
24 mental health and sex offender treatment. Lexington,  
25 Kentucky, is one place that has both available. It also

1 would be closer to his mother. So I would ask the Court to  
2 make a recommendation to BOP that he get that treatment help  
3 while he's serving his sentence and that if appropriate --  
4 if it's appropriate, that he go to Lexington, Kentucky.

5 Thank you, Your Honor.

6 THE COURT: Mr. Wilcox, would you please step to  
7 the microphone. Sir, this is your opportunity to speak to  
8 the Court. This is your opportunity to tell me anything  
9 that you want to tell me about yourself, about this offense,  
10 or anything else that you think I should know before I  
11 sentence you. Please talk to me.

12 THE DEFENDANT: There's not a day that don't go by  
13 that I don't regret what has happened. I wish I could turn  
14 back and change what I've done. It basically changed my  
15 whole life. I didn't realize the addiction that I had to  
16 pornography, period, since my incarceration of seeing what I  
17 was doing to myself, to my daughter, and to the rest of my  
18 family because of my closed-mindedness.

19 I've been working with an organization called Pure  
20 Life Ministry out of Dry Ridge, Kentucky, and he's a former  
21 deputy sheriff out of California and that's what he  
22 specializes in and it's helped me greatly and I plan on  
23 keeping a long way -- in that step and other steps, you  
24 know, to get myself back to where I can be productive and  
25 helpful to others.

1 THE COURT: Anything else, sir?

2 THE DEFENDANT: Not that I can really think of. I  
3 mean, I wish my daughter was here so I could tell her how  
4 sorry I was, but unfortunately she's not.

5 THE COURT: Thank you. Step back.

6 Anything for the Government?

7 MS. SVENDSEN: Yes, Your Honor. The sexual abuse  
8 that this defendant perpetrated against his daughter over a  
9 period of years is unimaginable for us. This victim has  
10 described the flashbacks and the nightmares and the suicidal  
11 thoughts that she had to Probation, but there's no way for  
12 us to conceive of what it's like for a young girl to have  
13 her dad, who is a person who is expected to care for her and  
14 keep her safe, rape her over a period of years.

15 This defendant preyed on his daughter by taking  
16 her out on the road away from home and away from any  
17 possible support system that she might have, where she was  
18 isolated; and he did this over and over for a period of  
19 years. He videotaped the abuse to watch it later and that's  
20 a tape that the Court has had an opportunity to view.

21 We can't conceive of what it's like for this young  
22 girl to have a mother who disbelieved that this was  
23 happening, a mother who would write a letter to the Court  
24 supporting this defendant rather than supporting the victim  
25 here today.

1           And we can't imagine what it's like for that young  
2     girl at 13 years old to have her dad present her with the  
3     type of sex contracts that this defendant did in this case  
4     that talk about things that are just unspeakable and to have  
5     her sign those contracts and to initial the paragraphs  
6     describing the sexual conduct that she would be expected to  
7     engage in.

8           Those contracts repeatedly instruct her to get  
9     pictures of her friends and to ask her friends to  
10    participate in the abuse. They repeatedly tell her that any  
11    daughters she has will be subject to the same abuse that she  
12    went through.

13          And the contracts as they go are dated further and  
14    further out to make it clear -- the last one says that the  
15    abuse will continue on through some date in 2015, making it  
16    clear to her that this is going to continue and just  
17    increasing the psychological torture that she goes through,  
18    that there's no way out of this situation.

19          And respectfully the Government suggests that the  
20    defendant's assertion that these contracts are not serious  
21    or should be disregarded is patently absurd. On their face  
22    they repeatedly assert that they aren't jokes and that the  
23    defendant's daughter will be required to follow them. And  
24    this is the reality of what this victim went through for  
25    four years and this is the conduct that brings us here

1 today.

2 In my sentencing position I've addressed most of  
3 the defendant's requests for a downward variance and I won't  
4 rehash those arguments here other than to point out that the  
5 defendant is asking for a very substantial variance.

6 His guideline range, as the Court is well aware,  
7 is substantially off the top of the guideline chart and the  
8 defendant is asking for basically an 11-level downward  
9 variance that would disregard virtually all of the  
10 enhancements that apply in this case.

11 I would like to say briefly a word about the  
12 report, the psychosexual evaluation that the defendant has  
13 provided here today. And although the expert is not here  
14 for the Government to cross-examine, it does not appear that  
15 her evaluation takes into account information that's in the  
16 PSR or in the record before the Court that really sets forth  
17 the defendant's desire or intent to continue to engage in  
18 these type of behaviors, specifically his requests for his  
19 daughter to take pictures of her friends and his indications  
20 that he would do the same thing to the defendant's [sic]  
21 daughter.

22 In addition the report indicates that throughout  
23 the expert's analysis the defendant in connection with one  
24 of the tests attempted to exaggerate or emphasize his mental  
25 health problems, which indicates that he may not have been

1 entirely truthful with the expert.

2 The defendant's actions in this case were  
3 undeniably monstrous and the victim will carry them with her  
4 for the rest of her life and attempt to deal with them. A  
5 sentence of life imprisonment in this case would be a just  
6 one and would be sufficient, but not greater than necessary,  
7 to comply with the purposes of sentencing.

8 Thank you, Your Honor.

9 THE COURT: Thank you.

10 Kenneth Leon Wilcox, please step to the podium.  
11 On October 14, 2010 the defendant pled guilty to Counts 1  
12 and 2 of the ten-count indictment, Count 1, transportation  
13 of a minor with intent to engage in criminal sexual  
14 activity, in violation of Title 18, United States Code,  
15 Section 2423(a), a Class A felony; Count 2, production of  
16 child pornography, in violation of Title 18, United States  
17 Code, Section 2251(a) and (e), a Class B felony. It is  
18 considered and adjudged that the defendant is guilty of  
19 those two counts of the ten-count indictment. The Court  
20 will sentence the defendant as follows:

21 The Court has reviewed the presentence  
22 investigation report. The Court has reviewed the sentencing  
23 memorandums that have been supplied to the Court by both the  
24 Defense and the Government. The Court has reviewed the  
25 Eighth Circuit Court of Appeals decisions dealing with

1 sentencing.

2 The Court has reviewed the psychosexual report,  
3 psychological report that was given to the Court by the  
4 Defense. The Court has reviewed any and all other  
5 submissions to the Court, also including the Court viewing  
6 the videotape that was confiscated from the defendant and is  
7 part of the charges in this case dealing with the rape of  
8 his own daughter.

9 The Court has reviewed the factors under Title 18,  
10 3553, and will sentence the defendant accordingly. The  
11 defendant is hereby committed to the care and custody of the  
12 Bureau of Prisons for a term of 480 months. This term  
13 consists of 480 months on Count 1 and 360 months on Count 2,  
14 all to be served concurrently.

15 The Court will not impose a fine and there's no  
16 forfeiture issues.

17 As of this time the defendant [sic] has not  
18 identified the amount of restitution owed for ongoing  
19 counseling and treatment. If the victim subsequently  
20 discovers further losses, the victim shall have 60 days  
21 after discovery of those losses in which to petition the  
22 Court for an amended restitution order.

23 Such order may be granted only upon a showing of  
24 good cause for failure to include such losses in the initial  
25 claim of restitution relief. That's pursuant to Title 18,

1 United States Code, Section 3664(d)(5).

2 Over the period of incarceration the defendant  
3 shall make payments of either quarterly installments of a  
4 minimum of \$25 if working non-UNICOR or a minimum of  
5 50 percent of monthly earnings if working UNICOR.

6 The defendant should participate in the Inmate  
7 Financial Responsibility Program while incarcerated.

8 The defendant is sentenced to a term of supervised  
9 release for life. This term consists of life on Counts 1  
10 and 2 and all such terms to run concurrently. The following  
11 mandatory conditions are applicable:

12 The defendant must report to the United States  
13 Probation and Pretrial Services Office in the district to  
14 which the defendant is released within 72 hours of release  
15 from the custody of the Bureau of Prisons.

16 Two, the defendant shall not commit any crimes,  
17 federal, state, or local.

18 Three, the defendant shall not illegally possess a  
19 controlled substance. The defendant shall refrain from any  
20 unlawful use of a controlled substance. The defendant shall  
21 submit to one drug test within 15 days of release from  
22 imprisonment and at least two periodic drug tests thereafter  
23 as determined by the Court.

24 Next, the defendant shall not possess a firearm,  
25 ammunition or destructive device or any other destructive --



1 or dangerous weapon.

2 Next, the defendant shall cooperate in the  
3 collection of DNA as directed by the probation officer.

4 Next, the defendant shall comply with the  
5 requirements of the Sex Offender Registration and  
6 Notification Act as directed by the probation officer, the  
7 Bureau of Prisons, or any state sex offender registration  
8 agency in which he resides, works, is a student, or was  
9 convicted of a qualifying offense.

10 Next, restitution may be imposed. It is a  
11 condition of supervision that the defendant may pay in  
12 accordance with the schedule of payments sheet of the  
13 judgment.

14 Next, the defendant shall abide by the standard  
15 conditions of supervised release that have been adopted by  
16 this Court, including the following special conditions:

17 One, the defendant shall abstain from the use of  
18 alcohol and other intoxicants and not frequent  
19 establishments whose primary business is the sale of  
20 alcoholic beverages.

21 Next, the defendant shall participate in a program  
22 for substance abuse as approved by the probation officer.  
23 That program may include testing and inpatient or outpatient  
24 treatment, counseling, or support group. Further, the  
25 defendant shall contribute to the costs of such treatment as

1 determined by the Probation Office Co-Payment Program, not  
2 to exceed the total cost of treatment.

3 Next, the defendant shall not possess or use a  
4 computer or have access to any online service without the  
5 prior approval of the United States Probation and Pretrial  
6 Services Office.

7 The defendant shall identify all computer systems,  
8 Internet capable devices, and similar memory and electronic  
9 devices to which the defendant has access and allow  
10 installation of a computer and Internet monitoring service  
11 program.

12 Monitoring may include random examinations of  
13 computer systems, along with Internet, electronic, and media  
14 storage devices under the defendant's control. The computer  
15 system or devices may be removed for a more thorough  
16 examination if necessary. The defendant shall contribute to  
17 the costs of such monitoring services based on the  
18 defendant's ability to pay as deemed appropriate by the  
19 Probation Office.

20 Next, the defendant shall refrain from accessing  
21 that matter which relates to the activity in which the  
22 defendant was engaged in committing the instant offense  
23 behavior, namely child pornography.

24 Next, the defendant shall provide the probation  
25 officer access to any requested financial information,

1 including credit reports, credit card bills, bank  
2 statements, and telephone bills.

3 Next, the defendant shall not associate with  
4 persons under the age of 18 except in the presence of a  
5 responsible adult who is aware of the nature of the  
6 defendant's background and current offense and who has been  
7 approved by the probation officer.

8 Next, the defendant shall register with the state  
9 sex offender registration agency in any state where the  
10 defendant resides, is employed, carries on a vocation, or is  
11 a student as directed by the probation officer.

12 The probation officer will provide the state  
13 officials with any and all information, including substance  
14 abuse and mental health treatment records, required by the  
15 state sex offender registration agency.

16 The probation officer may direct the defendant to  
17 report to that agency personally for additional processing,  
18 including such things as photographing, fingerprinting, and  
19 providing a blood sample for DNA records.

20 The defendant shall participate in sex offender  
21 and/or mental health treatment as approved by the probation  
22 officer and shall submit to risk assessment, which may  
23 include, but not limited to, arousal screening, penile  
24 plethysmographing and polygraphing and/or truth verification  
25 testing. Sex offender assessments and treatment are to be

1 conducted by a therapist approved in advance by the  
2 Probation Office.

3 Further, the defendant shall contribute to the  
4 costs of such treatment as determined by the Probation  
5 Office Co-Payment Program, not to exceed the total cost of  
6 treatment.

7 Next, the defendant shall not have -- shall have  
8 no contact with the victims, including letters,  
9 communication devices, audio or visual devices, visits, or  
10 any contact through a third party without the Court's  
11 permission, not the Probation Office's permission, the  
12 Court's permission.

13 The defendant shall take all -- take any  
14 prescribed medications as directed by a medical provider.

15 If not employed at a regular lawful occupation as  
16 deemed appropriate by the probation officer, the defendant  
17 may be required to perform up to 20 hours of community  
18 service per week until employed. The defendant may also  
19 participate in training, counseling, daily job search, or  
20 other employment related activities as directed by the  
21 probation officer.

22 Next, the defendant shall submit his person,  
23 residence, office, vehicle, or any area under the  
24 defendant's control to a search conducted by the United  
25 States Probation Office or supervised designee at a

1 reasonable time in a reasonable manner based upon reasonable  
2 suspicion of contraband or evidence of a supervision  
3 violation.

4 The defendant shall warn any other residents or  
5 third parties that the premises or areas under the  
6 defendant's control may be subject to searches pursuant to  
7 this condition.

8 Finally, there's a \$100 special assessment on each  
9 count -- and that makes it a total, grand total, of \$200  
10 special assessment -- payable to the Crime Victims Fund,  
11 which is required by statute to be paid immediately.

12 Sir, if you feel the Court has not followed the  
13 law in the imposition of your sentence, you have a right to  
14 appeal your sentence to the Eighth Circuit Court of Appeals  
15 which sits in St. Louis. You have 14 days from today's date  
16 to file your notice of appeal to the Eighth Circuit Court of  
17 Appeals.

18 Mr. Olson will be your attorney on that appeal.  
19 If you do not wish to have Mr. Olson, you can represent  
20 yourself or you can hire your own attorney. In any event,  
21 you have 14 days from today's date to submit your notice of  
22 appeal to the Eighth Circuit Court of Appeals.

23 The Court has reviewed everything in this file.  
24 The guidelines sentence calls for life imprisonment.  
25 However, the Court feels that the punishment that will be

1 just in this matter is a 40-year term in prison.

2 The statement, sir, of you wishing that your  
3 daughter was here so you can apologize is one of -- it rings  
4 so hollow that really the Court should not respond to it.  
5 You abused your daughter in the most despicable way possible  
6 for a lengthy period of time, isolated her. She  
7 unfortunately is destroyed for the rest of her life. And  
8 the just punishment in this matter is for you to spend  
9 practically the rest of your life in prison.

10 Anything further for the Government?

11 MS. SVENDSEN: No, Your Honor.

12 THE COURT: Anything further for the Defense?

13 MR. OLSON: Just briefly, Your Honor. The Eighth  
14 Circuit suggests the following: I object to the sentence  
15 imposed as unreasonable on substantive grounds and I object  
16 to the sentence on procedural grounds as inadequate  
17 application of the 3553(a) sentencing factors, including the  
18 individual characteristics of the defendant. And I object  
19 that the Court relied upon objected-to portions of the PSR  
20 in its sentencing.

21 THE COURT: Anything else that you need to put on  
22 the record to cover your appeal?

23 MR. OLSON: And the objected-to portions of the  
24 PSR were specifically objected to and the Government offered  
25 no proof on those, and that goes to part of the procedural

1 objection and the sentence.

2 THE COURT: The Court states all the defense  
3 objections are timely. This is a lengthy sentence the Court  
4 has given and certainly the Court of Appeals has a right --  
5 I feel the Court of Appeals has a right to specifically look  
6 at each and everything the Court has done in this matter  
7 because essentially I've given this man a life imprisonment  
8 sentence.

9 THE DEFENDANT: [Inaudible.]

10 THE COURT: Anything further for the Government?

11 MS. SVENDSEN: Your Honor, my understanding was  
12 that the facts specifically that defendant was objecting to  
13 in the PSR were that there were allegations regarding  
14 another minor, C.L.H., and that any pictures taken of that  
15 minor were at the direction of the defendant.

16 Based on the Court's remarks today, it does not  
17 seem that the Court relied on those particular factors in  
18 arriving at this sentence. Just for purposes of clarifying  
19 the record, could the Court explain whether it relied upon  
20 those factors?

21 THE COURT: It did not.

22 MS. SVENDSEN: Thank you, Your Honor.

23 THE COURT: Anything further?

24 MR. OLSON: No, Your Honor.

25 (Court adjourned at 2:45 p.m.)

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4 I, Lori A. Simpson, certify that the foregoing is a  
5 correct transcript from the record of proceedings in the  
6 above-entitled matter.  
7

8 Certified by: s/ Lori A. Simpson

9 Lori A. Simpson, RMR-CRR  
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